

CGB-CL-0598

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September 27, 2006

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VIA HAND DELIVERY

Federal Communications Commission  
Office of Secretary

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
c/o Natek, Inc., Inc.  
236 Massachusetts Avenue, N.E.  
Suite 110  
Washington, DC 20002

Re: ReelzChannel, LLC Petition for Partial Closed Captioning Exemption  
Request that Financial Information Be Withheld from Public Inspection

Dear Ms. Dortch:

Under 79.1(f) of the Commission's rules, 47 C.F.R. § 79.1(f), and by means of this filing, the ReelzChannel LLC ("ReelzChannel") hereby submits its Petition for Partial Closed Captioning Exemption and the ReelzChannel Financial Information confidential attachment (collectively, "the Petition").

The Petition, however, has two versions: a Petition for public view and another Petition containing the confidential ReelzChannel Financial Information. For both the public and non public submissions, please find an original and two (2) copies of each included with this filing. An extra copy of the public filing is also enclosed. Please date-stamp the extra copy and return it to the courier.

The ReelzChannel respectfully requests that, pursuant to Sections 0.457 and 0.459 of the Commissions rules, the non public version of the Petition be treated as confidential and withheld from public inspection for the reasons set forth herein. The Petition has been marked as confidential.

Because the Petition contains confidential financial information about the ReelzChannel's present and anticipated losses, which would customarily be guarded from competitors, the ReelzChannel requests that it be kept confidential and withheld from public inspection in accordance with Section 0.457(d) (commercial or financial information) of the Commission's Rules.

Pursuant to Section 0.459(b) of the Commission's Rules, ReelzChannel provides the following information in support of its request for confidential treatment:

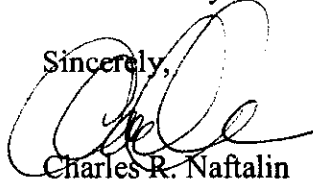
- (1) ReelzChannel requests confidential treatment of the Petition. It is marked as "Privileged and Confidential" and "Withhold from Public Inspection per Sections 0.457 and 0.459 of the FCC's rules."
- (2) The Petition is submitted voluntarily to the Commission under §79.1(f). Pursuant to 0.457(d) this financial report of a television station is not routinely available for inspection.
- (3) The Petition contains highly confidential information about the ReelzChannel and its present losses.
- (4) The multi-channel video content market is highly competitive, and other content providers could use the financial information to the competitive detriment of the ReelzChannel.
- (5) Disclosure of such information to competitors could compromise the ReelzChannel's efforts to sustain its new, nationwide video programming service. Other television stations could compete against the ReelzChannel unfairly if they had information concerning the ReelzChannel's losses. This would cause the ReelzChannel substantial competitive harm.
- (6) The ReelzChannel has taken precautionary measures to prevent unauthorized disclosure of the financial information by labeling all documents containing the confidential statement as "Privileged and Confidential," and limiting the distribution of the financial statement to principals and employees of the ReelzChannel, LLC and its attorneys.
- (7) The information contained in the Petition has not been disclosed to the public, nor disclosed to third-parties (except for counsel or consultants bound by confidentiality agreements or otherwise).
- (8) Regarding the time period in which the ReelzChannel requires for confidentiality, the ReelzChannel requests that the Petition (and the information contained within) be withheld from public disclosure until such time as it is no longer potentially harmful to disclose this information to the public.
- (9) Besides the other enumerated reasons, confidential treatment of the Petition will encourage licensees to fully disclose their actual financial information to the Commission when petitioning for an exemption of the closed captioning rules.

Under Section 0.461 of the Commission's rules, the ReelzChannel is entitled to file an Application for Review should another individual or corporation file a Freedom of Information Act request pursuant to 47 C.F.R. §0.461. On that vein, under the rules, the Commission cannot and should not automatically disclose this information filed in confidence. Section 0.461 entitles the ReelzChannel, LLC to a measure of notice and comment prior to disclosure of information submitted to this agency in confidence.

Marlene H. Dortch  
September 27, 2006  
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If there are any questions regarding the submission and the request for confidentiality, please contact Charles R. Naftalin at (202) 457-7040 or Amy S. Mushahwar at (202) 419-2544.

Sincerely,

A handwritten signature in black ink, appearing to be 'C. Naftalin', written over the word 'Sincerely,'.

Charles R. Naftalin  
Amy S. Mushahwar  
Holland & Knight LLP  
*Counsel for ReelzChannel, LLC*

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ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED

SEP 27 2006

In the Matter of:

REELZCHANNEL, LLC

Petition for Partial Exemption Closed

Captioning of the Closed Captioning Rules

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CSR No. \_\_\_\_\_

Federal Communications Commission  
Office of Secretary

**PETITION FOR PARTIAL CLOSED CAPTIONING EXEMPTION**

ReelzChannel, LLC ("ReelzChannel"), by its attorneys, and pursuant to Section 79.1(f) of the Commission's rules, hereby submits its Petition for Partial Closed Captioning Exemption ("Petition") by which it requests a partial exemption in order to be relieved of the obligation to pass through captioning of already captioned programs, under Section 79.1(c) of the Commission's rules, due to the undue burden it would place upon ReelzChannel. In support of this Petition, the following is submitted.<sup>1</sup>

ReelzChannel is a new, start up, video programming service scheduled to launch on September 27, 2006, with national distribution on direct broadcast satellite and cable television systems throughout the country, reaching approximately 28 million homes at launch. That launch is the culmination of more than five years of planning and investment. ReelzChannel will be devoted, 24/7, to programming about movies. ReelzChannel will not show movies, rather it will focus on the topic of movies. In addition, ReelzChannel will offer an innovative new "localization" technology that will allow its viewers to identify the titles, times and channel locations of selected movies available to them on the systems they watch, as well as at local theaters.

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<sup>1</sup> This Petition is supported by the Declaration of Bernard J. Weiss, Attachment No. 1 hereto.

The vast majority of ReelzChannel programming will be new and original. Consequently, ReelzChannel will be relying on Section 79.1(d)(9) of the Commission's rules to be exempt from providing closed captioning for its original programming for the first four years of its operations as a new network. Examples of such original programming include:

<i>Dailies</i>	ReelzChannel's signature show, Dailies is a daily news and information program focused entirely on the movies. Dailies offers exclusive clips, news, and stories from the movie world not seen on other networks. Dailies covers all movies whether they're in the theater, on DVD, Pay-Per-View, or Video-On-Demand (VOD). ReelzChannel will obtain its information from the inside and it will report in a well-informed but fun fashion. From the pitch to the premiere, if it's happening in the movie biz, ReelzChannel will be all over it.
<i>Secret's Out</i>	Hosted by Leonard Maltin, every week Secret's Out uncovers the overlooked gems that were outshined by the glow of the latest blockbusters. Whether it's in the theaters, on DVD, or on TV, Secret's Out will spotlight scene-stealing and star-making performances, videos lost on the shelf, and even stellar movie-centric Web sites that shouldn't be missed.
<i>The Checklist</i>	Know what you want from a movie? Why not make a list? ReelzChannel does. ReelzChannel will look for crazy characters ... non-stop action .... explosive effects ... and lots of the other essentials for a great movie experience. ReelzChannel goes through its checklist every week so you know what you're getting from the latest releases.
<i>The Big Tease</i>	What's the best part of going to the movies besides the popcorn? The movie trailers, of course! The Big Tease unspools ReelzChannel's favorites from upcoming movies in theaters, on DVD, Video On Demand, Pay-Per-View, and premium channels.
<i>What It Takes</i>	ReelzChannel looks at what it took for some of Hollywood's biggest names to make it large in showbiz. Through interviews from industry experts and the stars themselves, each episode reveals the choices they made, and the steps they took to get to the top of the Hollywood heap.

ReelzChannel anticipates that a small fraction of its programming will contain closed captioning because it was produced by other sources. Such programming would include advertisements, commercial programming and programs and clips produced by other entities.<sup>2</sup>

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<sup>2</sup> ReelzChannel will air at launch only one such program, "The Directors." Some, but not all, episodes of "The Directors" include closed-captioning. ReelzChannel estimates that the closed captioned episodes of "The Directors" will account for less than twenty percents of its programming, not including commercial programming. More importantly, all of the episodes are being re-edited by ReelzChannel to significantly shorten the original programs, so that any existing closed-captioning could be altered to some extent, and therefore, could be confusing to the viewer if it were passed through. ReelzChannel's business plan does not anticipate expanding its program offerings

The initial investment in ReelzChannel is tens of millions of dollars and that investment will grow substantially in its first few years. As a new operation, investments in, and expenses of, ReelzChannel will exceed its revenues greatly through its start-up years. By this Petition, ReelzChannel requests that it be exempt from the requirement that it pass through that small amount of closed captioning because arranging to pass it through would be a considerable additional financial burden during its start-up phase. Attachment No. 2 hereto, for which ReelzChannel is seeking confidential treatment by requesting that it be withheld from public inspection, is its Statement which demonstrates the enormous financial undertakings that ReelzChannel is making to establish and support the network through its first years of operation. It also estimates ReelzChannel revenues. That Statement establishes that forcing ReelzChannel to pass through small amounts of closed captioning would be an unwarranted burden and unfair to a start-up operation.<sup>3</sup> Furthermore, as shown in this Petition, passing through the small amount of closed captioning likely available would be of little value to the hearing impaired viewers who are supposed to be benefited by the Commission's rule.

Granting this Petition would be in the public interest for two significant reasons. It would prevent a burden that could deter the development of a new and largely original program service to viewers nationwide. The costs of deployment of closed captioning distribution mechanisms is

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through the addition of any other existing programs that would include closed captioning. ReelzChannel anticipates that it would add only original programs.

<sup>3</sup> The Communications Act specifically authorizes the Commission to exempt programs and services from closed captioning obligations when they would be "economically burdensome to the provider or owner of such programming." 47 U.S.C. §613(d)(1). The statute defines "undue burden" to mean "significant difficulty or expense," and provides a list of factors for the Commission to consider in making this determination: "(1) the nature and cost of the closed captions for the programming; (2) the impact on the operation of the provider or program owner; (3) the financial resources of the provider or program owner; and (4) the type of operations of the provider or program owner." 47 U.S.C. §613(e); *see also* 47 C.F.R. §79.1(f)(2). A petition for an undue burden exemption also may present for the Commission's consideration "any other factors the petitioner deems relevant to the Commission's final determination." 47 C.F.R. §79.1(f)(3) (emphasis added). *See Anglers for Christ Ministries, Inc. and New Beginning Ministries, Video Programming Accessibility, Petitions for Exemption from Closed Captioning Requirements*, DA 06-1802 (Chief, CGAB, released September 12, 2006).

the same to ReelzChannel whether it provides captioned programming 24/7 or only occasionally. ReelzChannel is committed to provision of captioning for its originally produced programming no later than four years after its launch, consistent with Section 79.1(d)(9) of the Commission's rules. Requiring it to invest in closed captioning facilities now would be inconsistent with that provision of the Commission's rules, intended to encourage start-up program distributors such as ReelzChannel. The Commission should be especially protective of ReelzChannel because its mission is to produce original programming and because ReelzChannel is an independent network, not affiliated, owned or controlled by any of the major media conglomerates.<sup>4</sup>

In addition, enforcement of the pass through obligation would have little value because closed captioning would be available on a fraction of its programming. Viewers probably would not be expecting captioning and, possibly, could be confused by its isolated appearance.

Consequently, ReelzChannel requests that it be exempted from the requirement that it pass through closed captioning under Section 79.1(c) of the Commission's rules until it begins provision of closed captioning of its originally produced programming, or four years from the date of this Petition, whichever occurs first. In the alternative, if the Commission is inclined to reduce the scope of the requested exemption, then it provide ReelzChannel with at least six months of advance notice in order to be able to make the early financial and technical

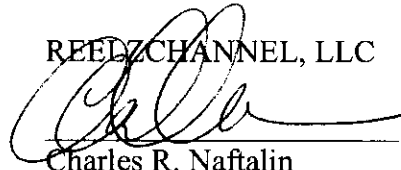
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<sup>4</sup> For example, the Commission's policy is to be protective of program diversity under its scheme for broadcast ownership. *See 2002 Biennial Regulatory Review -- Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, 18 FCC Red 13620, 13631 (2003) ("We conclude that program diversity is a policy goal of broadcast ownership regulation.").

investments that would be required to establish the system architectures required to pass through closed captioning in an orderly and efficient way.<sup>5</sup>

Respectfully submitted,

REELZCHANNEL, LLC

A handwritten signature in black ink, appearing to read 'Charles R. Naftalin', is written over a horizontal line.

Charles R. Naftalin

Amy S. Mushahwar

HOLLAND & KNIGHT LLP  
2099 Pennsylvania Avenue, N.W.  
Suite 100  
Washington, D.C. 20006  
(202) 955-3000

September 27, 2006

Its Attorneys

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<sup>5</sup> See Attachment No. 2.



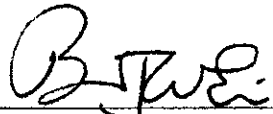
DECLARATION OF BERNARD J. WEISS

Bernard J. Weiss, subject to the penalty of perjury, declares the following.

I am a United States Citizen, more than eighteen years of age and competent to testify. I am the Executive Vice President, Finance and Administration of ReelzChannel, LLC ("ReelzChannel"), a position I have held since ReelzChannel was formed in 2000. I have participated in the preparation of the ReelzChannel Petition for Partial Closed Captioning Exemption ("Petition") to be submitted to the Federal Communications Commission and have reviewed an advanced draft of it. The assertions of fact in the Petition concerning ReelzChannel are correct based upon my information and belief.

In addition, Attachment No. 2 to the Petition, which contains confidential financial information of ReelzChannel, was prepared by me or under my direction. The information in that Attachment No. 2 is true and correct based upon my information and belief.

September 26, 2006

  
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Bernard J. Weiss